

## § 172.11

## 19 CFR Ch. I (4–1–98 Edition)

refer the claim to the Department of Justice.

(b) *Absence from the U.S.* If it appears that the parties liable for liquidated damages are absent from the U.S. or were absent for more than 20 days during the 30-day period referred to in paragraph (a) of this section, the Fines, Penalty, and Forfeiture Officer may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

[T.D. 87–51, 52 FR 12151, Apr. 15, 1987]

### Subpart B—Application for Relief

#### § 172.11 Petition for relief.

(a) *To whom addressed.* Petitions for relief shall be addressed to the Commissioner of Customs.

(b) *Form.* A petition for relief need not be in any particular form. Such petition shall set forth the facts relied upon by the petitioner to justify cancellation of the claim for liquidated damages, and shall be signed by the petitioner, his attorney at law, or a customhouse broker representing the petitioner. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory employee thereof, an attorney at law, or a customhouse broker representing the corporation.

[T.D. 70–249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 73–141, 38 FR 13556, May 23, 1973]

#### § 172.12 Filing of petition for relief.

(a) *Where filed.* A petition for relief shall be filed with the Fines, Penalty, and Forfeiture Officer for the port where the liability for liquidated damage is incurred.

(b) *When filed.*

(1) Except with respect to sureties, a petition for relief shall be filed within 60 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the Fines, Penalty, and Forfeiture Officer.

(2) The surety will receive notice to pay the liquidated damages if the principal fails to either timely file a petition or to pay or make arrangements to pay the liquidated damages. The no-

tice will be sent to the surety within 10 days after the expiration of the principal's 60-day petitioning period or as soon thereafter as possible. The surety will then have an additional 60 days from the date of this notification to file its own petition for relief.

(c) *Number of copies.* The petition shall be filed in duplicate.

[T.D. 70–249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 87–51, 52 FR 12152, Apr. 15, 1987; T.D. 92–84, 57 FR 40607, Sept. 4, 1992]

### Subpart C—Action on Petitions

#### § 172.21 Petitions acted on by Fines, Penalty, and Forfeiture Officer.

The port director may cancel any claim for liquidated damages incurred on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the claim is \$100,000 or less.

[T.D. 85–25, 50 FR 7336, Feb. 22, 1985]

#### § 172.22 Special cases acted on by Fines, Penalty, and Forfeiture Officer.

(a) *Nonproduction of documents in general.* Fines, Penalty, and Forfeiture Officers are hereby authorized to treat any bond charge for the production of a missing document as satisfied upon payment by the principal or surety of the sum of \$25 as liquidated damages for each missing declaration of the consignee or other document, except shippers' export declarations and special Customs and commercial invoices, not produced within the time prescribed by law or regulations or any lawful extension of such time.

(b) *Nonproduction of commercial invoices.* If a required commercial invoice is not produced (1) on the date the entry or entry summary is filed, (2) within 120 days after the date the entry or entry summary is required to be filed, or (3) if the invoice is needed for statistical purposes, within 50 days after the date the entry or entry summary is required to be filed, then unless the production is waived under the provisions of § 141.92 of this chapter, the bond charge for the production thereof may be canceled by the Fines, Penalty, and Forfeiture Officer upon